IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Misc. Application No.152/2006

In

S.B. Civil Second Appeal No.286 Of 2006.

Nand Kishore Vs. Agrawal Vaishnav Panchayat Mandir Shri Ramchandraji, Kota

Date Of Order ::: 14.11.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. R.M.S. Panwar, Counsel for defendant-applicant-appellant.
Mr. Amit Jindal, Counsel for plaintiff-non-applicant-respondent.

By the Court :

Heard learned counsel for both the parties.

The applicant-appellant has filed an application for grant of time to vacate the disputed shop. The second appeal of the defendant-appellant was dismissed by this Court vide order datd 29.05.2006. Thereafter, the appellant filed the Special Leave Petition before the Hon'ble Supreme Court, which was

also dismissed on 08.09.2006. The Hon'ble Supreme Court while rejecting the Special Leave Petition filed by the appellant did not grant time to vacate the premises, but observed that if an application is filed before the High Court, then the said application will be considered on its own merits, in accordance with the law. In these circumstances, the present application has been filed.

The order passed by the Hon'ble Supreme Court dated 08.09.2006 reads as under;-

> "UPON hearing counsel the Court made the following
>
> O R D E R.
>
> Heard.
>
> The special leave petition is dismissed.
>
> However, counsel prays that some time be granted to the petitioner to vacate the premises in question. We are not inclined to accede to the prayer ex-parte. He may move appropriate application before the High Court seeking grant of time to vacate the premises. If such an application is filed, the High Court shall consider and decide the same on its own merits, in accordance with law. It is made clear that the

> liberty granted shall not be treated as an expression of opinion for granting extension”.

I have considered the submissions of learned counsel for both the parties for grant of time to vacate the premises. The decree in the present case was passed by the Lower Court on 06.10.1995 and the appeal of the appellant was dismissed by the First Appellate Court on 09.03.2006. The second appeal was dismissed on 29.05.2006. A period of six months has already expired after dismissal of the second appeal of the appellant.

However, in the interest of justice, I allow further one-&-half months time to learned counsel for the applicant-appellant to vacate the peaceful disputed shop and to hand-over the possession thereof to the respondent. It is directed that the appellant shall not be dispossessed till 31st of December 2006 provided he files an undertaking in writing in the Executing Court within a period of seven days from today to the effect that he shall hand-over the vacant and peaceful possession of the disputed shop on or before 31st of December 2006.

In view of above, the application stands disposed of.

(Narendra Kumar Jain) J.